

1 Christine P. Bartholomew (State Bar No. 211425)
2 Mark Punzalan (State Bar No. 247599)
3 FINKELSTEIN, THOMPSON LLP
4 100 Bush Street, Suite 1450
5 San Francisco, California 94104
6 Telephone: (415) 398-8700
7 Facsimile: (415) 398-8704

8 [Additional Counsel Listed on Signature Page]

9 Attorneys for *Plaintiff*

10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA**

12 PETER RUDOLPH, individually and on) Case No. C-07-4578-SI
13 behalf of all others similarly situated,)
14 Plaintiff,)
15 vs.)
16 UT STARCOM, HONG LIANG LU,)
17 MICHAEL SOPHIE, THOMAS TOY, and)
18 FRANCIS BARTON,)
19 Defendants.)
20 _____

21 **WAIVER OF SERVICE OF SUMMONS**

22 TO: Mark Punzalan

23 I acknowledge receipt of your request that I waive service of a summons in the above-
24 captioned action. I have also received a copy of the complaint in the action, two copies of this
25 instrument, and a means by which I can return the signed waiver to you without cost to me.

26 I agree to save the cost of service of a summons and an additional copy of the complaint I
27 this lawsuit by not requiring that I (the entity on whose behalf I am acting) be served with judicial
28 process in the manner provided by Rule 4.

1 I (or the entity on whose behalf I am acting) will retain all defenses or objections to the
2 lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the
3 summons or in the service of the summons.

4

5 I understand that a judgment may be entered against me (or the party on whose behalf I am
6 acting) if an answer or motion under Rule 12 is not served upon you within 60 days after
7 September 13, 2007 (date request was sent).

8 _____
9 Date

10 9/13/07

11 _____
12 

13 Signature

14 Printed/typed name:

15 Bahram Seyedin-Noor
16 Wilson Sonsini Goodrich & Rosati
17 650 Page Mill Road
18 Palo Alto, CA 94304-1050
19 650.565.3566 Office
20 650.799.7647 Cell
21 650.493.6811 Fax

22 On Behalf of Francis Barton

23 **Duty to Avoid Unnecessary Costs of Service of Summons**

24 Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in
25 saving unnecessary costs of service of the summons and complaint. A defendant located in the
26 United States who, after being notified of an action and asked by a plaintiff located in the United
27 States to waive service of a summons, fails to do so will be required to bear the cost of such
28 service unless good cause be shown for its failure to sign and return the waiver.

1 It is not good cause for a failure to waive service that a party believes that the complaint is
2 unfounded, or that the action has been brought in an improper place or in a court that lacks
3 jurisdictions over the subject matter of the action or over its person or property. A party who
4 waives service of the summons retains all defenses and objections (except any relating to the
5 summons or service of the summons), and may later object to the jurisdiction of the court of to the
6 place where the action has been brought.

7 A defendant who waives service must within the time specified on the waiver form serve
8 on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also
9 file a signed copy of the response with the court. If the answer or motion is not served within this
10 time, a default judgment may be taken against that defendant. By waiving service, a defendant is
11 allowed more time to answer than if the summons had been actually served when the request for
12 waiver of service was received.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28